IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 19TH MARCH 2007 / 28TH PHALGUNA 1928

WP(C).No. 29139 of 2005(R)

---

PETITIONER:

---

GEORGE KOHAH,
HIGH SCHOOL ASST. (SOCIAL STUDIES),
GOVT. HIGHER SECONDARY SCHOOL, THODUPUZHA.

BY ADV. SRI.M.RAMESH CHANDER
SRI.SIJI ANTONY

RESPONDENTS:

---

1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY TO
GENERAL EDUCATION, SECRETARIAT, TRIVANDRUM.

2. DEPUTY DIRECTOR OF EDUCATION,
OFFICE OF THE DEPUTY DIRECTOR OF EDUCATION, IDUKKI
THODUPUZHA, IDUKKI DISTRICT.

3. THE HEADMASTER,
GOVT. HIGHER SECONDARY SCHOOL,
THODUPUZHA, IDUKKI.

BY GOVERNMENT PLEADER SRI.P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE STATEMENT OF FIXATION OF PAY REVISION W.E.F. 1.7.1992.

EXT.P2: COPY OF THE PROCEEDINGS NO.K.DIS.7/96-97 DATED 2.1.1997.

EXT.P3: COPY OF THE AUDIT OBJECTION RAISED BY THE 2ND RESPONDENT DATED 1.7.2002.

EXT.P4: COPY OF THE 3RD RESPONDENT ISSUED A NOTICE LR.NO.127/0506 DTD 6.10.2005.

EXT.P5: COPY OF THE G.O.(P).615/96 (110) FIN. DATED 3.10.1996.

.....

BKN // TRUE COPY//

P.A. TO JUDGE.

**T.R.RAMACHANDRAN NAIR, J**

**----------**

**W.P.(C).NO. 29139 OF 2005**

**----------**

**Dated this the 19th Day of March, 2007.**

**----------**

The petitioner is working as a High School Assistant (Social Studies) in the Government High School, Marayoor. He entered service on 3.11.1981. On completion of 10 years of service he was sanctioned the first higher grade with effect from 3.11.1991, as evidenced by Ext.P1. According to the petitioner based on the pay revision of the year 1992, the petitioner submitted re-option for the benefits of higher grade with effect from 1.7.1992 in the pay scale Rs.1220-2150.

2. The challenge in the Original Petition is against Ext.P4 which was apparently communicated to the petitioner based on the audit objection, Ext.P3. This court by an Interim Order dated granted interim stay of recovery for a period of three months which has been extended from time to time. By Interim Order dated 12.9.2006, this court directed that the option to be exercised by the petitioner in terms of G.O.(P).145/2006/Fin. dated 25.3.2006 shall be entertained provisionally, subject to the result of Writ Petition.

3. The petitioner is relying upon Ext.P5 order issued by the Finance Department, concerning the sanction given to all employees for exercising re-option in respect of 1988 and 1992 pay revisions and related service based grade / non-cadre promotions subject to the conditions in the Government Order therein. According to the petitioner, going by Ext.P5, there is no

irregularity in the re-option submitted by him which was sanctioned as per Ext.P2. In Ext.P2, the date elected to come under the revised scale is 1.7.1993. In the counter affidavit filed by the first respondent, the eligibility of the petitioner to opt the said date in the revised scale is disputed on the basis of various Government Orders issued in this regard.

4. Since Ext.P4 is only a communication issued by the Head Master of the school and none of the statutory authorities, have gone into the sustainability of the audit objection, the petitioner has got an effective remedy to approach the Government itself and agitate the matter. Hence, if the petitioner files a representation before the Government of Kerala within one month from this date, the first respondent will consider the matter on merits and pass appropriate orders after giving an opportunity to the petitioner also for hearing. The Interim Orders passed by this court dated 17.10.2005 and 12.9.2006 will continue to be in force till orders are passed and communicated to the petitioner.

**T.R.RAMACHANDRAN NAIR**
**JUDGE.**

bkn